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# Assembly California Legislature



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January 26, 2010

Secretary Matthew Cate  
1515 S Street  
Sacramento, CA 95814

Via Facsimile and Mail

Dear Secretary Cate:

I am writing for two reasons. First, neither CDCR nor anyone in the Governor's Administration has responded to my letter last week setting forth significant concerns with the threat to public safety as a result of the actions being taken by the Department of Corrections and Rehabilitation (CDCR), and the steps CDCR needs to take to mitigate the harm to our communities and crime victims. I am following up on the status of my initial request.

The second reason I am writing is to request that CDCR stop misleading the public. In all my years in public service, I have never seen before the scale of deception and misleading statements being made by CDCR to the media. What CDCR is saying is beyond "spin"; CDCR is making intentionally misleading statements to confuse the public and media. That is not acceptable. I have had to correct on numerous occasions yesterday reporters who were being misled by CDCR. I will highlight some of the statements below and request that CDCR issue a retraction to the media.

**Contrary to CDCR's statements, rehabilitation services and rehabilitation incentives in prisons were largely ELIMINATED, not expanded.**

CDCR repeatedly stated to print, radio, and television media that the new law was a "landmark achievement" because, in part, it increased prisoners' incentives to get rehabilitation. CDCR's press release also states that CDCR "[e]xpanded incentive credits for inmates." You also stated to ABC television that "[b]y providing some incentives for inmates to get a GED, learn a trade, become clean and sober, that's how you reduce recidivism and reduce crime."

Under SBx3 18, section 38(b), however, the new law states that "For every six months of continuous incarceration, a prisoner *shall* be awarded credit reductions from his or her term of confinement of six months" (emphasis added). Until yesterday, prisoners had to learn a trade, get a GED, or get some sort of rehabilitation services in order to receive day for day credit reductions. The new law ELIMINATED that previous rehabilitation requirement and now prisoners SHALL receive day for day credit simply for breathing.

For example, if a convicted felon is serving 6 years in prison for "felony child abuse likely to produce great bodily injury or death," that confinement will be reduced to 3 years under the new rules regardless of whether or not the prisoner engages in any type of rehabilitation programs. The only thing the prisoner has to do is sit in his cell and breathe and he SHALL be awarded day-for-day credit.

The Department of Corrections, after eliminating the main rehabilitation credit, then substituted a much smaller six-week rehabilitation credit. This is a contraction, not an expansion, of rehabilitation credits. Replacing a much larger incentive to get day for day credits for rehabilitation services with a much smaller credit does not increase rehabilitation incentives or programs, it does exactly the opposite.

The misleading nature of CDCR's statements is further contradicted by CDCR's actions. Actions speak louder than words. CDCR is laying off approximately 600 to 800 vocational and educational teachers in state prisons, the very people running these rehabilitation programs. CDCR is also cutting hundreds of millions of dollars from its rehabilitation programs. That means the majority of rehabilitation programs, starting yesterday, are going to be gutted.

I tried to set up a meeting between CDCR and the rehabilitation teachers who were getting pink slips, but CDCR has refused to meet with them. As a public agency, it is unacceptable to not meet with the very employees you are laying off.

We would all be better served if CDCR simply told the truth, which is that these are significant cuts that are going to reduce rehabilitation programs, and reduce incentives as well as access for state prisoners to learn a trade, get a GED, or engage in other types of rehabilitation.

**Contrary to CDCR's statements, convicted criminals are being RELEASED EARLY.**

Yesterday CDCR told the LA Times that "no one gets out today." That is incorrect. As set forth above, under section 38(b) of the new law, the overwhelming number of prisoners, *including those in local jails*, get their sentences cut in half simply for breathing if they serve confinement sentences longer than six months. As a result, counties across California started releasing inmates early yesterday. For example, yesterday approximately 260 inmates were released early in San Diego because they all of a sudden got day for day credit.

Starting yesterday, CDCR is also giving the "breathing" credit for any prisoner who serves more than six months of confinement. CDCR can call this what it wants, but law enforcement, crime victims, and reasonable people know what this is: it is early release.

**Contrary to CDCR's statements, parolees will have LESS SUPERVISION, not more, and crime will INCREASE, not decrease.**

CDCR told multiple media outlets that the new rules will lower the rate at which parolees are returned to state lockups and reduce crime overall. The new law may lower the rate of which parolees are returned because they will not be sent back to state prison even if they commit a new crime. But that doesn't mean crime will decrease, it means crime will increase. Section 48 of SBx3 18 states that "[n]otwithstanding any other provision of law, the Department of

Corrections and Rehabilitation shall not return to prison, place a parole hold on . . . , or report any parole violation to the Board of Parole Hearings . . . .”

This ostrich-like approach championed by CDCR may very well reduce the rate at which felons are returned to prison. But it certainly is not going to reduce crime in the local communities. The goal is reintegrating parolees into society and reducing crime. Not sending parolees back to prison or reporting them to the Parole Board even if they commit new crimes—which previously constituted parole violations—will only further disincentivize convicted felons from reintegrating into society and following the law once they are released.

CDCR also told multiple media outlets that these are “non-violent” and “non-serious” offenders. I and my staff have repeatedly asked CDCR for a list of crimes that CDCR considers to be non-violent and non-serious. We have yet to receive that list. From my reading of CDCR policy, numerous violent or serious crimes are considered non-violent and non-serious by CDCR, including: felony child abuse likely to produce great bodily injury or death (section 273(a)); theft from an elder or dependent adult (PC 386(d)); and unlawfully causing a fire to an inhabited structure (PC 452).

### **It is time to start having an honest debate**

These are difficult budgetary times and I understand the monumental challenges you face. But we cannot start solving the massive problems in our prison system if CDCR does not tell the truth. I would understand and respect if CDCR stated that, because of budgetary constraints, CDCR has to implement changes that will reduce rehabilitation services and result in early release of prisoners.

I am writing this letter because, instead, CDCR has engaged in a series of misleading statements that go far beyond spin into the realm of deception. CDCR knows full well that these cuts are NOT a “landmark achievement” for California, nor was it a “win-win situation,” nor did public safety “significantly increase.” No one in local law enforcement or victims of crime believe CDCR’s statements—that is why they were standing with me and not CDCR yesterday at our respective press conferences.

I simply request that, from now on, CDCR start telling the truth. A second request would be to receive a response from CDCR or the Administration. I am happy to discuss this in person as well. I did not want to do a press conference, nor did I want to author a bill to force CDCR to comply. But because CDCR has been so non-responsive, I had no choice. We would all be better served if CDCR started responding to concerns set forth by local law enforcement, crime victims, and legislators; and stopped misleading the public.

Sincerely,



Ted W. Lieu  
Chair, Joint Rules Committee, California State Legislature

cc: Governor Arnold Schwarzenegger